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PETZILLA, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

PETZILLA, INC. a Delaware corporation,  
d/b/a Petzila,

Plaintiff,

v.

ANSER INNOVATION LLC, a Minnesota  
limited liability company,

Defendant.

Case No. 14-cv-01354 EMC

**DECLARATION OF NICOLAS S.  
GIKKAS IN SUPPORT OF MOTION  
FOR EXPEDITED DISCOVERY, FOR  
ENLARGING TIME TO OPPOSE  
DEFENDANT'S MOTION TO DISMISS,  
AND FOR SHORTENING TIME FOR  
HEARING THIS MOTION**

Date: TBD  
Time: 1:30 p.m.  
Courtroom: 5, 17th Floor  
Judge: Hon. Edward M. Chen

I, Nicolas S. Gikkas, declare as follows:

1. I am an attorney and counsel of record for plaintiff Petzilla, Inc. (“Petzila”) in the above-captioned matter. I make this declaration on personal knowledge and if called as a witness could and would testify competently thereto.

Expedited Jurisdictional Discovery

2. Attached hereto as Exhibit A is a true and correct copy of emails exchanged between myself and Mr. Grant Fairbairn, Esq., counsel of record in this litigation for defendant Anser Innovation LLC (“Anser” or “Defendant”). Mr. Fairbairn was admitted *pro hac vice* by Order of the Court (Dkt. No. 16).

3. The copies of emails in Exhibit A document my unsuccessful efforts starting on April 15 to obtain a meet and confer on taking expedited jurisdictional discovery of Defendant, prior to its filing a planned motion to dismiss under Rule 12(b)(2) for lack of personal jurisdiction. Although a response to the First Amended Complaint was not due until April 28 and Mr. Fairbairn was informed that Petzila was agreeable to extending the briefing schedule by stipulation, Mr. Fairbairn would not agree to meet and confer until after filing his motion to dismiss. Defendant filed its motion to dismiss on April 17.

4. Attached hereto as Exhibit B is a true and correct copy of Petzila’s First Set of Requests for Production to Defendant.

5. Attached hereto as Exhibit C is a true and correct copy of Petzila’s First Set of Interrogatories to Defendant.

6. Attached hereto as Exhibit D is a true and correct copy of Petzila’s Notice of Deposition to Defendant.

7. Attached hereto as Exhibit E is a true and correct copy of Petzila’s Notice of Deposition to Lisa M. Lavin, who provided a declaration in support of Defendant’s motion to dismiss.

8. Attached hereto as Exhibit F is a true and correct copy of a sample subpoena to be served on PayPal, Inc., identified in the Lavin Declaration, regarding Defendant’s virtual store.

9. Attached hereto as Exhibit G is a true and correct copy of a sample subpoena to be served on Tuffy Pet Foods, Inc., identified in the Lavin Declaration, regarding Defendant's distribution activities.

10. Attached hereto as Exhibit H is a true and correct copy of a sample subpoena to be served on Kroll Family Trust, identified as assignor of patent at issue, and known to be involved in the operation of Defendant.

11. Attached hereto as Exhibit I is a true and correct copy of a sample subpoena to be served on PetCo Animal Supplies, Inc., a major national pet supply retailer.

12. Attached hereto as Exhibit J is a true and correct copy of a sample subpoena to be served on Pet Food Express, Ltd., a major California pet supply retailer.

Enlargement of Time for Filing Opposition Brief

13. Pursuant to Local Rule 6-3(a)(1), Petzila seeks an enlargement of time to file its opposition brief to Defendant's motion to dismiss because it needs expedited jurisdictional discovery to fully respond. The deadline for Petzila's opposition brief is currently May 1, 2014.

14. Regarding enlargement of time, pursuant to Local Rule 6-3(a)(2), Petzila is unable to obtain a stipulation to the change in time longer than the one week offered by Defendant's counsel. Petzila seeks a reasonable time to take this discovery which is largely in Defendant's hands.

15. Regarding enlargement of time, pursuant to Local Rule 6-3(a)(3), Petzila will be substantially harmed and prejudiced if the Court does not grant its request for enlargement of time because Petzila will be unable to complete jurisdictional discovery before it must oppose Defendant's motion to dismiss for lack of personal jurisdiction on May 1, 2014.

16. Regarding enlargement of time, pursuant to Local Rule 6-4(a)(4)(i), Local Rule 37-1(a) is not applicable because this is not a motion compel disclosure or discovery for sanctions.

17. Regarding enlargement of time, pursuant to Local Rule 6-3(a)(4)(ii), the nature of the underlying dispute (that is addressed in the Motion) is that Petzila seeks targeted, expedited discovery to obtain additional evidence on Defendant's contacts with this District.

1           18.     Regarding enlargement of time, pursuant to Local Rule 6-3(a)(5), there have been  
2 no previous modifications in time since the First Amended Complaint was only recently filed on  
3 April 11, 2014.

4           19.     Regarding enlargement of time, pursuant to Local Rule 6-3(a)(6), the requested  
5 time modification will help advance the schedule for this case because Petzila will complete  
6 expedited discovery prior to when it must oppose Defendant's motion to dismiss.

7           Shortening of Time for Hearing This Motion

8           20.     Pursuant to Local Rule 6-3(a)(1), Petzila seeks a shortening of time to for the Court  
9 to hear this Motion because it needs expedited jurisdictional discovery to properly oppose  
10 Defendant's motion to dismiss currently due on May 1, 2014. However, Local Rule 7-2(a)  
11 requires motions to be noticed no fewer than 35 days from the filing date.

12           21.     Regarding shortening time, pursuant to Local Rule 6-3(a)(2), Petzila seeks a  
13 reasonable time to take jurisdictional discovery and requests that the Court hear this Motion and  
14 decide the Motion prior to the briefing schedule set by local rule.

15           22.     Regarding shortening time, pursuant to Local Rule 6-3(a)(3), Petzila will be  
16 substantially harmed and prejudiced if the Court does not grant its request for shortening of time  
17 to hear this Motion because Petzila will be unable to complete jurisdictional discovery before it  
18 must oppose Defendant's motion to dismiss for lack of personal jurisdiction on May 1, 2014.

19           23.     Regarding shortening time, pursuant to Local Rule 6-4(a)(4)(i), Local Rule 37-1(a)  
20 is not applicable because this is not a motion compel disclosure or discovery for sanctions.

21           24.     Regarding shortening time, pursuant to Local Rule 6-3(a)(4)(ii), the nature of the  
22 underlying dispute that will be addressed in the motion is that Petzila seeks targeted, expedited  
23 discovery to obtain additional evidence on Defendant's contacts with this District.

24           25.     Regarding shortening time, pursuant to Local Rule 6-3(a)(5), there have been no  
25 previous modifications in time since the First Amended Complaint was only recently filed on  
26 April 11, 2014.

I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct. Executed on this 22nd day of April 2014.

DECLARATION OF NICOLAS S. GIKKAS IN SUPPORT OF MOTION  
CASE NO. 14-CV-01354-EMC